

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

AIRGIZMOS, LP,

§

Plaintiff,

§

v.

§ Civil Action No. 2:16-cv-612

§ JURY DEMAND

GUARDIAN AVIONICS, LLC

§

Defendant.

§
§

PLAINTIFF'S COMPLAINT

1. Plaintiff AirGizmos, LP ("Plaintiff" or "AirGizmos") files its Complaint for patent infringement against Defendant Guardian Avionics, LLC ("Defendant" or "Guardian"), and asserts a claim for infringement of U.S. Patent No. 8,641,121 (the "121 Patent"), a copy of which is attached hereto as Exhibit "A," under 35 U.S.C. § 271, *et seq.* In support thereof, AirGizmos would respectfully show the Court the following:

PARTIES

2. Plaintiff AirGizmos, LP is a Texas limited partnership with its principal place of business located at 2280 Campbell Creek Blvd., Suite 300, Richardson, Texas 75082.

3. Defendant Guardian Avionics LLC is an Arizona limited liability company that has its principal place of business located at 1951 E. Airport Drive, Tucson, Arizona 85756. Guardian does business in the State of Texas and in the Eastern District of Texas. Guardian does not maintain a registered agent for service of process in Texas, but does maintain a statutory agent in Arizona. Guardian may be served through its Statutory Agent, Ashok Vij, at 1951 E. Airport Drive, Tucson, Arizona 85756.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant Guardian. Guardian conducts business within the State of Texas and the Eastern District of Texas. Guardian directly or through intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and advertises its products in the United States, the State of Texas, and the Eastern District of Texas. Guardian has purposefully and voluntarily placed infringing products in the stream of commerce with the knowledge and expectation that its products will be purchased by end users in the Eastern District of Texas. Guardian has committed the tort of patent infringement within the State of Texas and this District. For example, Guardian maintains an interactive internet website at www.guardianavionics.com through which it advertises its infringing products, including its iFDR Panel Mount Systems for iPhone 6, iPad Mini & iPad Pro portable electronic devices. The Guardian website is fully accessible to customers in Texas. Moreover, Guardian sells and ships products to dealers located in the Eastern District of Texas, including AVA Jet of Texas, LLC, located in Denton, Denton County, Texas, and Aerotex International, located in Lewisville, Denton County, Texas. Further, on or about May 10, 2016, Guardian sold an infringing product to a customer, Max Probasco, and shipped that infringing product to Mr. Probasco at his address in Plano, Collin County, Texas. Attached as Exhibit B is a copy of the receipt and mailing label for the product Guardian sold and shipped to Mr. Probasco.

6. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(b) and 1400.

FACTUAL BACKGROUND

A. AirGizmos.

7. AirGizmos is a Texas limited partnership that was formed in 2005 for the purpose of designing, manufacturing and selling innovative products in the civilian aircraft industry. AirGizmos sells devices for use in private aircraft for mounting hand-held gps devices and antennas. Among the mounting devices designed and sold by AirGizmos are its line of Panel Docks that permit a user to mount inside a cockpit devices such as a Garmin gps device, an Apple iPad, AvMap gps device, AirMap device, or other similar devices that include mapping and gps features. AirGizmos sells these devices nationally both through its internet web site at www.airgizmos.com, and also through a number of distributors.

B. U.S. Patent No. 8,641,121

8. On July 22, 2005, Michael Schipper and Max Probasco, two of the partners of AirGizmos, filed a provisional patent application with the US Patent and Trademark Office. This provisional application eventually issued, after a full and fair examination, as US Patent No. 8,641,121 on February 4, 2014. The USPTO extended the term of the '121 Patent by 444 days under 35 U.S.C. § 154(b), so that the '121 Patent will expire on or about October 8, 2026. The general invention disclosed in the '121 Patent was an improved mounting mechanism for mounting and holding electronic and other devices in vehicles which would increase safety in the vehicle and improve the ability of the operator to incorporate the captured device in their instrument scan. The '121 Patent includes one independent claim and three dependent claims.

9. Michael Schipper and Max Probasco assigned all of their rights, title and interest in the inventions contained in the '121 Patent to AirGizmos, LP, giving AirGizmos standing to bring this lawsuit.

10. Claim 1 of the ‘121 Patent discloses a mounting device, for mounting a portable electronic instrument within an instrument panel or a vehicle, the mounting device comprising: a housing comprising a cavity with a first area having a first depth and a recessed area having a recessed depth that is greater than the first depth; the cavity further comprises: a back extending behind the first area and the recessed area; wherein the recessed area is operable to hold a connector coupled to a cable that may be routed into the recessed area through the back; and wherein the cavity is operable to capture a portable electronic instrument, and wherein the mounting device further comprises; a retaining mechanism having an engaging position and a disengaging position; wherein the retaining mechanism retains the portable electronic instrument in the cavity in the engaging position, and wherein the retaining mechanism releases the portable electronic instrument from the cavity in the disengaging position.

11. Claim 2 of the ‘121 Patent discloses the mounting device of claim 1, wherein the retaining mechanism is flexible.

12. Claim 3 of the ‘121 Patent discloses the mounting device of claim 2, wherein the retaining mechanism is flexed away from the portable electronic instrument to release the portable electronic instrument in the disengaging position.

13. Claim 4 of the ‘121 Patent discloses the mounting device of claim 1, further comprising: at least one connector pass through hole located on the back in the first area through which the connector coupled to the cable may be routed through the back into the cavity.

14. Many of the mounting devices designed, manufactured and/or sold by AirGizmos embody one or more of the inventions claimed in the ‘121 Patent.

C. Guardian Avionics' Infringing Products.

15. Guardian sells a line of products called the "iFDR Panel Mount Series" which comprise mounting devices for mounting the Apple iPhone, iPad Mini, iPad Air, and iPad Pro portable electronic devices within the instrument panel of an aircraft or other vehicles. A representative example of the iFDR Panel Mount Series is the Panel Mount for the Apple iPad Mini ("iPad Mini Mount"). Guardian describes its iPad Mini Mount is a "flush mounting system to dock and fully integrated your Apple iPad Mini into your aircraft instrument panel."

The iFDR Aircraft Instrument Panel Mount for the Apple iPad Mini

A new flush mounting system to dock and fully integrate your Apple iPad Mini into your aircraft instrument panel

The iFDR Panel Mount for Apple iPad Mini is a new flush mounting system to easily dock and seamlessly integrate your existing iPad Mini into your aircraft instrument panel – giving it a clean, professional appearance in an easy to view position! Once installed, the iFDR mount allows your iPad to be docked in seconds, fully connected to power and audio with built-in cable ports. Removal is just as easy – just slide, push, and remove!



Compatible with all models of iPad Mini through Mini 4, the iFDR Panel Mount allows you to transform your new or existing panel* and use the most popular iPad for aviation in the cockpit, fully integrated with your instrument panel. Your charts and approach plates are in easy sight for reference and you can even use your iPad Mini as a small multi-function display with the many popular iOS aviation apps available.

See <http://www.guardianavionics.com/ifdr-aircraft-panel-mount-ipad-mini-dock.html>.

Furthermore, the iPad Mini Mount is simple to install and "can be used easily for a wide variety of applications -- wherever there is a flat surface," including in other vehicles such as automobiles, boats, and Recreational Vehicles.

Simple installation.

The iFDR Panel Mount is designed for easy installation in your panel. Each durable molded ABS plastic unit is self-contained and mounts with only four screws. Our installation drawings give you the exact panel cutout details and screw positions in either PDF or AutoCAD DXF for precise cuts. The iFDR Panel Mount for iPad Mini requires a 7.834" long and 5.679" high panel cutout and can be mounted either horizontally or vertically.

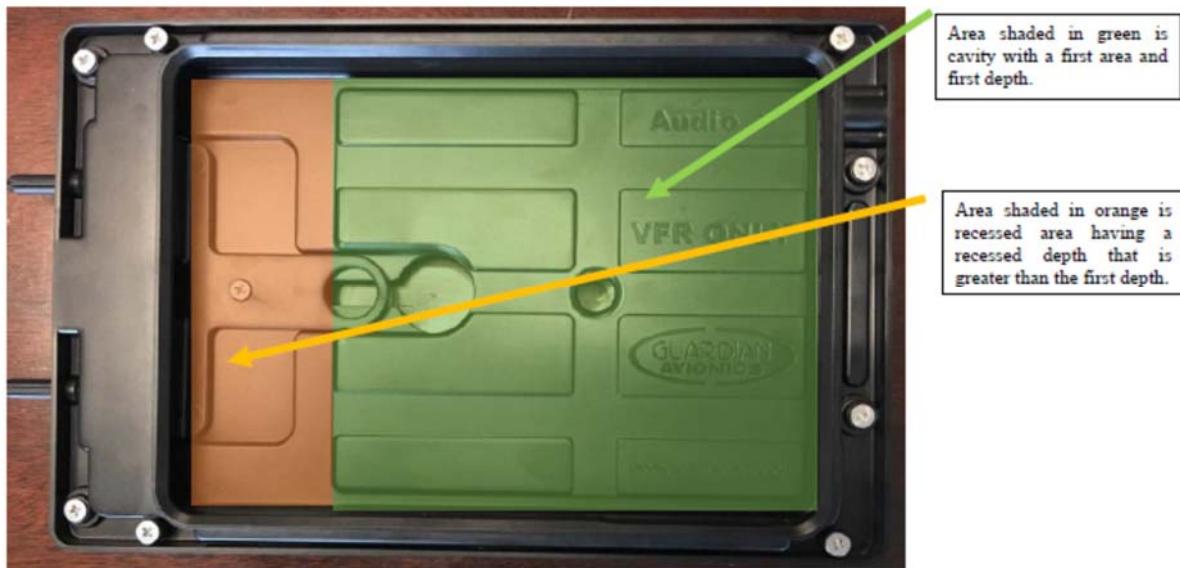
Mount in Automobiles, Boats, RVs, and Displays Too!

Though the iFDR Panel Mount for iPad Mini was designed for use in aircraft, the durable construction and well-designed flush mount **can be used easily for a wide variety of applications -- wherever there is a flat surface!**

- **Automobile** - A great custom dashboard mount for custom cars, auto restorations, or to incorporate into your own upgrade design to customize your car or truck. **An easy way to add a clean and custom navigation display in any vehicle!**
- **Marine / Boats** - The thin profile flush mount works well to create a custom bridge display in your boat, yacht, or watercraft for charts, weather, and navigation information. Mount in the wall of your cabin for a space-saving entertainment / communication / information system!
- **Recreational Vehicles (RVs) and Campers** - Create a custom mount in the wall of your trailer, RV, or mobile home to have a simple entertainment and communication system while saving space!
- **Displays / Office / Home Use** - An easy-to-install custom flush mount to add to trade show displays, retail kiosks, educational exhibits, home entertainment systems, and home management systems.

See <http://www.guardianavionics.com/ifdr-aircraft-panel-mount-ipad-mini-dock.html>.

16. As disclosed in Claim 1 of the '121 Patent, the iPad Mini Mount comprises a housing which includes a first cavity with an area and depth and a recessed area having a depth that is greater than the depth of the first cavity.



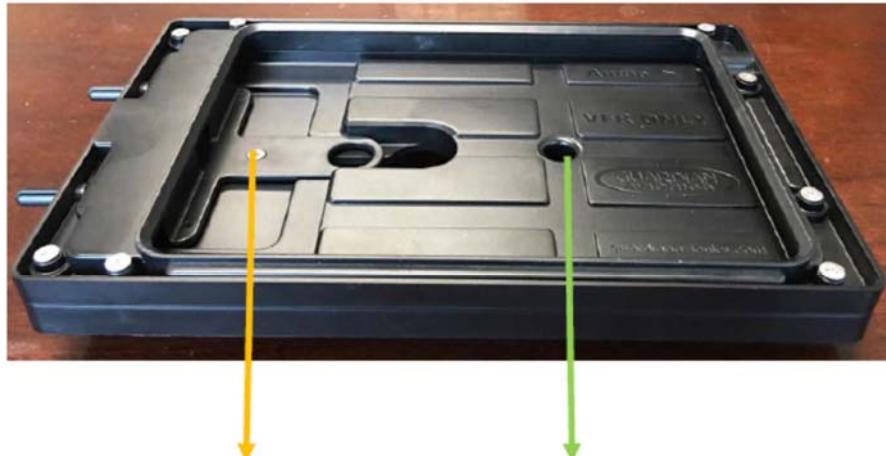
17. The iPad Mini Mount contains a back extending behind the first area and recessed area.



Further, the back of the iPad Mini Mount extends behind the first area and recessed area.

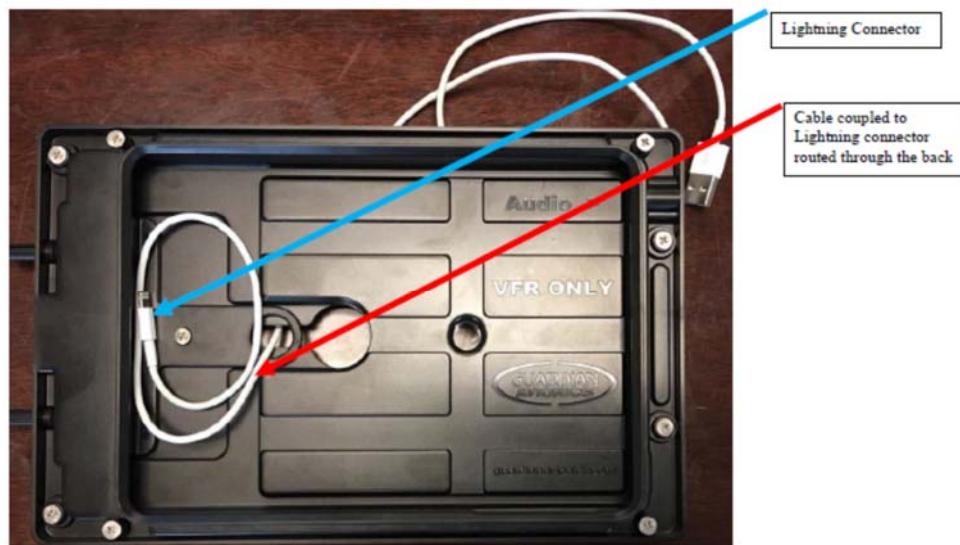


The back section extends behind the front cavity and recessed area.



Arrows show areas in front corresponding to the part behind where the back in the previous picture extends.

18. The recessed area is operated to hold a connector coupled to a cable that is routed through the back. The picture below shows an Apple Lightning connector coupled to a USB cable located in the recessed area of the iPad Mini Mount. The Lightning connector is the standard connector to the Lightning port of the iPad Mini. The cable can be routed through the back of the iPad Mini Mount.



The following pictures show front and back views of the iPad Mini Mount with an iPad Mini plugged into the connector coupled to the cable routed through the back:



Guardian also advertises the iPad Mini Mount as having the cables behind the panel: “Built in ports for the Apple Lighting plug and a 3.5 mm audio cable help keep cables safely and securely position ***behind*** the panel . . .”

Designed with General Aviation in mind.

The iFDR Panel Mount for iPad Mini was designed by aerospace engineers to perform in the unique environment of the cockpit. The spring actuated mounting cradle securely holds the iPad in place during the roughest of turbulence. The clean, flush mount has a shallow chassis allowing it to be easily installed in even the smallest of instrument panels*. Built-in ports for the Apple Lightning plug and a 3.5mm audio cable help keep cables safely and securely positioned behind the panel, allowing you the ability to connect to power, data, and audio without the cord mess.

See <http://www.guardianavionics.com/ifdr-aircraft-panel-mount-ipad-mini-dock.html>.

19. The iPad Mini Mount is operable to capture an iPad Mini device.



20. Guardian advertises its iPad Mini Mount as having a “spring actuated mounting cradle . . .”

Designed with General Aviation in mind.

The iFDR Panel Mount for iPad Mini was designed by aerospace engineers to perform in the unique environment of the cockpit. The spring actuated mounting cradle securely holds the iPad in place during the roughest of turbulence. The clean, flush mount has a shallow chassis allowing it to be easily installed in even the smallest of instrument panels*. Built-in ports for the Apple Lightning plug and a 3.5mm audio cable help keep cables safely and securely positioned behind the panel, allowing you the ability to connect to power, data, and audio without the cord mess.

See <http://www.guardianavionics.com/ifdr-aircraft-panel-mount-ipad-mini-dock.html>.

Similarly, the specification of the '121 Patent specifically references a “spring loaded . . . tab” for retaining the device:

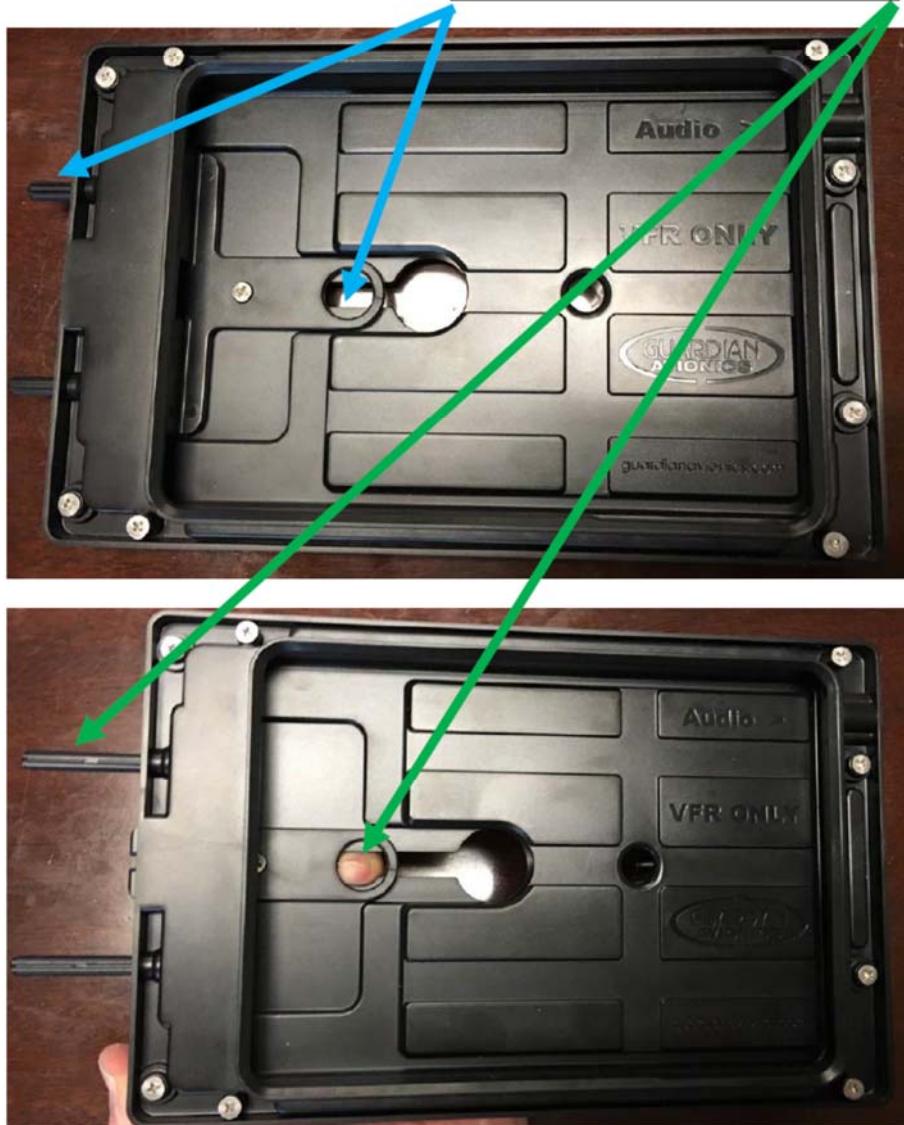
FIG. 1b illustrates a system 10 in which the electronic device 12 is captured by the mounting mechanism 10. To attach the mounting mechanism 10 into a panel (not illustrated) or other mounting structure, tabs 14 are provided to allow connection to the panel or a support structure attached to the panel using fasteners 15. Device 12 may be retained in mounting mechanism by a spring loaded or flexible tab 23. To release and remove device 12 from mounting mechanism 10, retaining mechanism 23 is flexed away from device 12.

See '121 Patent, Column 3, Lines 30 – 38. The iPad Mini Mount has such a spring loaded retaining mechanism with an engaging and a disengaging position.



This mechanism can be lowered (moved to the left in the above picture) to an engaging position, and further lowered into a disengaging position, as shown below:

The top picture shows the engaging position and the bottom picture shows the disengaging position. Note how the retaining mechanism has moved further to the left in the disengaging position to allow room for the iPad Mini to slide out.



21. The retaining mechanism retains the iPad Mini in the engaging position.



In the disengaging position, which can be seen by noting that the spring loaded tabs on the retaining mechanism are longer on the left (thus demonstrating that the retaining mechanism has been pushed from the engaging position to the disengaging position), the iPad mini can be removed by sliding it out.



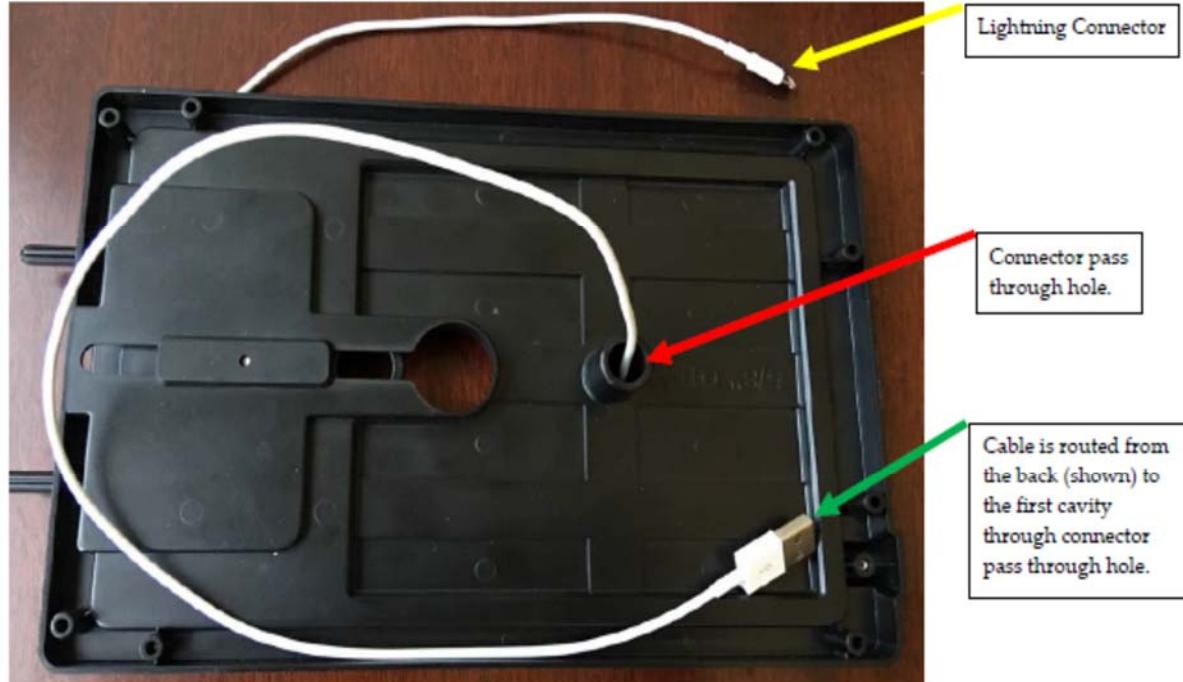
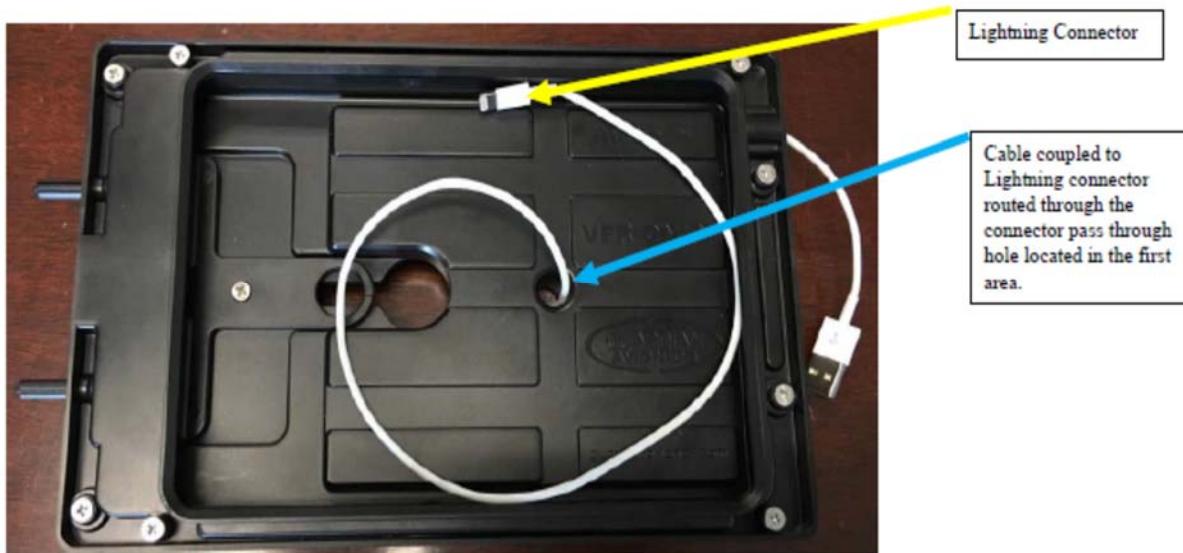
22. As disclosed by Claim 2 of the ‘121 Patent, the iPad Mini Mount has a flexible retaining mechanism due to the spring loaded tabs.



23. As disclosed by Claim 3 of the ‘121 Patent, the spring loaded tabs can be flexed or pushed away from the iPad Mini so that the device can be released by sliding it out of the disengaging position.



24. As disclosed in Claim 4 of the ‘121 Patent, the iPad Mini Mount has an additional connector pass through hole on the back which allows a connector coupled to the cable to be routed through the back into the cavity.



COUNT I:
INFRINGEMENT OF THE ‘121 PATENT

25. AirGizmos realleges paragraphs 1 through 24 herein.
26. Guardian has been and is now directly infringing the ‘121 Patent pursuant to 35 U.S.C. § 271. The infringing acts include, but are not limited to the manufacture, sale and/or offer for sale of the mounting products for use with portable electronic devices such as the Apple iPhone, iPad Mini, iPad Air, and iPad Pro known as Guardian’s “iFDR Panel Mount Series” of products (“Accused Products”).
27. By manufacturing, selling and/or offering for sale the Accused Products in the United States, Guardian directly and literally infringes one or more of Claims 1, 2, 3 and/or 4 of the ‘121 Patent. To the extent that Guardian may not literally practice each element of these claims, it alternatively practices such elements through the doctrine of equivalents.
28. Guardian’s past and continued acts of infringement of the ‘121 Patent have injured AirGizmos, have deprived AirGizmos of sales of its own products that it would otherwise made, and have further deprived AirGizmos of the profits it would have received from those sales. AirGizmos is entitled to recover damages for all injuries it has suffered as a result of Guardian’s infringement, including but not limited to AirGizmos’ lost profits, or alternatively a reasonable royalty.
29. By continuing to sell the Accused Products after learning of the ‘121 Patent, Guardian is willfully infringing the ‘121 Patent.
30. Guardian’s infringement of AirGizmos’ exclusive rights under the ‘121 Patent have and will continue to damage Guardian’s business, causing AirGizmos to suffer irreparable harm and injury for which there is no adequate remedy at law. Therefore, AirGizmos seeks a preliminary and permanent injunction against Guardian to prevent any further infringement of the ‘121 Patent.

MISCELLANEOUS

31. AirGizmos has satisfied all conditions precedent to filing this action, or any such conditions that have not been satisfied have been waived.

32. Through this pleading, AirGizmos has not elected any one remedy to which it may be entitled, separately or collectively, over any other remedy.

PRAYER FOR RELIEF

Plaintiff AirGizmos, LP, respectfully request the following relief:

- A. That the Court issue a preliminary injunction against Guardian, enjoining it from making, using, selling, or offering for sale in the United States any products embodying the patented inventions claimed in the ‘121 Patent during the pendency of this case;
- B. That the Court issue a permanent injunction against Guardian from making, using, selling, or offering for sale in the United States any products embodying the patented inventions claimed in the ‘121 Patent;
- C. That the Court award damages to Plaintiff AirGizmos, LP;
- D. That the Court award enhanced damages to Plaintiff AirGizmos’ as a result of Guardian’ willful infringement of the ‘121 Patent;
- E. That the Court declare this to be an “exceptional” case under 35 U.S.C. § 285;
- F. That the Court award pre-judgment and post-judgment interest on such damages at the highest rates allowed by law;
- G. That the Court award Plaintiff AirGizmos its costs and attorneys’ fees incurred in this action; and

H. That the Court award such other and further relief, at law or in equity, as the Court deems just and proper.

A JURY TRIAL IS DEMANDED BY PLAINTIFF AIRGIZMOS, LP.

Respectfully submitted,

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